

Determining student due process and privacy rights



**ASSIGN
BUSTER**

Determining Student Due Process and Privacy Rights xxxx American College
x Determining Student Due Process and Privacy Rights In this paper I will address a due process rights afforded to a student in a scenario presented by The American College of Education. I will explain the substantive and procedural due process rights as they relate to student discipline in the situation. I will give concepts, and examples relating to freedom of speech and privacy. I will address the IEP educational rights as I understand it within the scope of California and the federal IDEA legislation. Scenario The following scenario is presented: A sixth-grade student, Julia, has been enrolled at your school, of which you are the principal, for about three months. Julia is prone to brief, disruptive outbursts in class and has had trouble getting along with her teachers and classmates. She also has difficulty paying attention in class and does not sit still during tests and quizzes. Julia has an IEP, which includes a behavior plan. Just after Julia's teacher passes out a quiz, Julia jumps up from her desk and runs around the classroom shouting profanities. In the process of running around the room, a marijuana joint falls out of Julia's pocket.

Campus security is called to restrain Julia, and she soon identifies another student from a different classroom, Marcus, as having given her the drugs earlier that day. " I will address the content of the scenario as if this were a real student within my school setting. I will have to modify this assignment due to my setting. Though the student may have rights under her Individualized Education Plan (IEP), because I work in a court facility, state law regarding the incarcerations of minors would be enacted and this would not become a school issue as far as expulsion or suspension.

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>

However, other settings within the LA County Office of Education we have school discipline issues which rears its ugly head. Much of what is written here is from LACOE board policy (Los Angeles County Office of Education, 2008), an attorney school discipline handbook (Public Counsel Law Center, 2010), and the LACOE appeals procedure manual (Los Angeles County Office of Education). I have also used the school discipline handbook as a reference (Los Angeles County Office of Education, 1996). In this situation, many people would participate in this meeting.

I would participate in the meeting as the school psychologist; in addition, the resource teacher, school principal, student, and parental right holder would be present. As we examine the IEP, a lot would depend upon the qualifying disability addressed in the IEP. For example, if the student is Emotionally Disturbed the inattention issues may be related to more of a demanding disability. Based on the scenario, the other qualifying condition would be an Other Health Impairment (OHI) which could be based off of a diagnosis of attention deficit hyperactivity disorder (ADHD).

In my mind, the outburst is distinctly different from that of carrying marijuana. A “ Manifestation of Determination” would be held to determine the link between a disability and the offense. Mentally retarded children are often not referred for disciplinary actions because of their incapacity to understand the consequences of their actions. If the team finds that the behavior was not caused by the child’s disability, the regulars ferry action will proceed. In addition, if appropriate, the child might also receive a Functional Behavioral Assessment (FBA) depending on the IEP team’s decision.

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>

In all likelihood, the student will be moved or returned to his district of residence prior to that meeting. During any time a student is suspended, the student will not be receiving special education services. If, however, the suspension is considered a long-term suspension (about five days), special education services would continue during the process. If the resulting behavior was a result of a disability, then the IEP would be modified and adjusted to meet the child's needs.

In all likelihood a positive behavior support plan would be developed, designated instructional service counseling added, a behavioral specialist assigned, or any other actions the IEP team felt appropriate. According to policies that are in place within the Los Angeles County Office of Education (LACOE), a behavior plan should be developed and implemented. Because the teacher is directly involved with the plan, it should be a teacher developing a plan with the assistance of the resource teacher and school psychologist. The first option for school discipline would be detention.

This is the least restrictive form of school discipline LACOE would use. If the parent does not agree with manifestation determination, a parent can appeal that decision to the Office of Administration (OAH), (see Appendix). There is a specific timeline to request an appeal. A parent cannot wait months on end to ask for an appeal a decision. There is a time limit of 15 days from the request of the school or parent in which any IEP team members must try to resolve the appeals issues. At the 20 day mark the expedited hearing must occur. After the meeting is held, the final decision must be given to the parent.

If the child does not have an IEP, but the parent knew that there was an IEP and a school did not respond, LACOE must do the assessment and/or write the IEP so the child may be found eligible for special education services. Students receiving 504 accommodations have many of the same rights. One of the big issues within the county offices is the inability to track students with a 504 plan. Students with either an IEP or an accommodation plan may be able to file an Office for Civil Rights (OCR) complaint. There is a 60 day timeline that must be adhered to by policy.

LACOE also has a suspension policy. However, there is a zero-tolerance policy when it comes to drugs/narcotics. At times, the zero-tolerance policy may be overlooked. A suspension may not be longer than five consecutive school days. During that time the recommendation to return to the district may be considered. School staff would consider other options available such as counseling, and/or management, and community referral. Either Parent in the scenario has a right to request an informal conference with the principal. Depending upon the situation, the principal may take a more formal approach.

In any case, the student must be contacted or at least make reasonable attempted contact. I have seen a situation where a student has committed serious offenses and the parent was not able to be bothered with the situation. Education code dictates the right to an appeal to suspensions or expulsions. LACOE does not have an appeal policy. There have been situations where students have appealed to the LACOE board. These situations are atypical of a LACOE program. However, LACOE manages

programs for the High School and the Arts which has a higher level of participation.

In the scenario in the above, the student had possession of illegal drugs. This is a zero-tolerance offense. Many of the suspension rules do not apply. He might be transferred to another school program which would likely be the solution. An alternative program such as a community school would be considered. Parents within my settings are very unlikely to challenge any school decision. However, if they did, they would be allowed due process according to the policies that are in place currently (California Department of Education).

First, the parent will be contacted via personal phone call and informed of the situation. The student would then be returned to the school district for another education placement. This is unique for the County Office of Education. The county office of education is not a district of residence (DOR) it is a service district, with memorandum of understandings in place. Meaning, the schools at county offices have limited say in regard to expulsions. They are simply a returned district. The scenario above is quite typical in an alternative education placement which the county offices oversee.

Because the schools sites I have worked with within the County office of education deals with students that no other district wants, the tolerance level is much higher. I have seen situations much like above that resulted in parent conference, a behavior plan, a suspension for a few days, and a student being returned to class. The police would be called during the

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>

situation and Marcus would be detained awaiting their arrival. In all likelihood, he would be taken away and charge with possession and sale of marijuana. Problem solved.

He probably would not be coming back to the setting and in all probability I might see him at a juvenile hall at or camp placement. Either by school personnel or by the police Marcus would be searched. School security would search Marcus prior to police arrival. It is unlikely the student would carry any more marijuana on his person. It is probably hidden outside the school or school area. Effective Discipline As educators, it is my view that we are in the teaching business. Discipline, at the heart of the word, means to teach a child. School discipline should have a purpose and be consistent.

Consistency is one of the biggest problems within the LA County office of education. Programs, administrators, principles, and teachers have a somewhat different view of what it means to educate and to discipline. As educators we need to be especially mindful of the child's disability and what related service needs are being implemented for the student. With special education students, individual needs will need to be addressed on a case-by-case basis (Public Counsel Law Center, 2010). I see the detention being a form of discipline that is effective if it is managed correctly.

This is especially true if it is done during the academic day. This means that the student would be required to stay in for a school lunch. However, sometimes this means punishing the teacher as well. Special education students find writing standards extremely difficult to maintain and should not be used as a primary discipline tactic. It may just cause the student to

become more reserved when it comes to writing prompts (Los Angeles County Office of Education, 2007). Suspension may just aggravate a problem. For example, suspending the student that was caught being truant may not be the best use of the teaching experience.

For discipline to be effective it needs to be related to the problem at hand. Some of the best research on positive behavioral change is to relate the discipline directly to a behavior problem. So in other words if the student was truant for the day, the discipline would be to add a day or two to his school year. This would thereby be linked and would be viewed as a natural consequence to behavior (Marshall, 2010). Depending on the view of the student, however, suspensions can work. But for a student that is absence, truant, or lacks parent support, suspensions may not be the best school discipline to be used.

I would think that if suspension were to be used, it should be in concert with the parent. To have a student go home and play video games for the day is not effective. I believe that is why the law has parental notification and due process as the backbone. Expulsions, unfortunately, are a necessity. When issues become so severe that they cannot be remediated at the school level, a change of placement is needed. In cases of bullies, gangs, sexual aggressiveness, and other high-level offenses, the student must be expelled in my opinion. If nothing else, for safety.

I would suggest parental involvement be at the core of any change that should be done. This is even true at the high school level. Having worked at every grade level from kindergarten through college it seems to me that as

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>

the child grows older there's less parental involvement. At times when modeling appropriate behavior is essential, the parent is often involved in self-absorbed activities or career advancement (Thomas & Grimes, 2002). Consistency within school programs is essential (Marshall, 2010). Clearer role establishment is a necessity for any effective program.

Ambiguous rule violations undermine effective discipline. I believe in the philosophy " I mean what I say and I say what I mean. " This is the biggest problem by far than that of the LA County Office of Education. An alternative to formal discipline needs to be explored. The most effective way to eliminate behavior problems is to have an effective curriculum (Marshall, 2010). Students need to be actively engaged and employed in learning. Many behavior problems are dissolved when a student is excited about education and personal growth that can be found at school. Out of control classrooms lead to disciplinary problems.

Several times I have been asked to consult with the teacher regarding a student. And some of the times, to be quite honest, the problem is the teacher and not the student. At the heart of that curriculum is the teacher. It is essential that teachers have a significant relationship with his or her students. A teacher must know the pedagogy with whom he/she works. Summary Hopefully, I was able to bring across my point by investigating the scenario questions relating to Julia and Marcus. It is a difficult situation especially if one or both are special education students.

It is even more difficult when the inconsistent programs within the Los Angeles County office of education are used to try to discipline students. In

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>

addition, I have tried to identify the aspects of the school district code of conduct, student discipline policies and the due process rules as currently instituted. I have suggested improvements based on research, state laws, and my knowledge of the IEP process. This activity has made me stretch my knowledge of the due process procedures. Some of the material I have uncovered during this assignment will be placed in binders by myself for use within my office. References

California Department of Education. (2012). Laws & regulations: A composite of Laws. Retrieved from http://www3.scoe.net/speced/laws_search/searchLaws.cfm

California Department of Education. (2012, January 3). Parents' rights: A brief summary of Procedural Safeguards for students with disabilities receiving special education services. Retrieved from <http://www.cde.ca.gov/sp/se/qa/pssummary.asp>

Los Angeles County Office of Education. (2007). SELPA Handbook. n. p. Los Angeles County Office of Education. (1996). Division of juvenile court schools handbook (sec. IV). Author. Los Angeles County Office of Education. 2008).

Policies and Regulations. Los Angeles: Author. Los Angeles County Office of

Education. (n. d.). Appeals packet. Author. Los Angeles County Office of

Education. (n. d.). Site discipline plan: For Gonzales, Kilpatrick, and Miller

Schools. n. p. Marshall, M. (2010). Discipline without Stress, Punishments or

Rewards. Piper Press. Public Counsel Law Center. (2010). School discipline.

Los Angeles. Thomas, A. , & Grimes, J. (2002). Best Practices in School

Psychology IV (Volumes 1 & 2). Bethesda, MD: National Association of School

Psychologists. In Best practices in school psychology IV. Attachments [pic]

<https://assignbuster.com/determining-student-due-process-and-privacy-rights/>